

**Notice of Allowability**

Application No.

10/749,061

Examiner

Patrick J. Kilkenny

Applicant(s)

WILLIS, GEOFFREY H.

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request for Continued Examination filed on 8/7/2006.
2. ☒ The allowed claim(s) is/are 1-4,6-19,23,25-30 and 32-46.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|   | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

Among the prior art, there are both inflatable organ retractors and vacuum source organ retractors and stabilizers. However, organ retractors in the art that utilize and inflatable member do so to displace the organ from one position to another. The vacuum retractors and stabilizers use negative pressure to displace an organ or stabilize it in a fixed position. However, there is no anticipation for a retractor or stabilizer that has both an inflatable member and a separate lumen attached to a vacuum source passing through the inflatable member. The prior art of Buckman, Jr. et al. (5,484,391) illustrates a rare example of an organ manipulating device that uses both positive and negative pressure to inflate an organ contacting member and also create suction at the surface of the organ. However, the device of Buckman, Jr. et al. does so via the same open cavity. That is, positive pressure inflates the contacting suction cup, and negative pressure creates a vacuum with the same suction cup. The positive and negative fluids share the same space at different times. The current application claims a device in which an inflatable member has an open lumen passing through for negative vacuum pressure, and the inflatable member and the lumen of negative pressure are completely isolated. This allows the inflatable member to remain inflated and contact the organ surface as the vacuum source creates a negative pressure within the closed space between the inflatable member and the organ. There is also no teaching to

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provide an opening in the inflatable member of Buckman, Jr. et al., because this would not allow for the positive fluids to inflate the inflatable cup as described. There is also no teaching in the art to combine an inflatable member with any of the prior art vacuum stabilizers or vice versa.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Kilkenney whose telephone number is (571) 272-8684. The examiner can normally be reached on Mon-Fri, 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patrick J. Kilkenny  
August 21, 2006



CRIS L. RODRIGUEZ  
PRIMARY EXAMINER